

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

STEPHEN MCCOLLUM, *et al.*,
Plaintiffs,

v.

BRAD LIVINGSTON, *et al.*,
Defendants.

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CIVIL NO. 4:14-CV-3253

PROPOSED ORDER

This cause coming to be heard on the TDCJ Defendants’ **OBJECTIONS TO AND MOTION TO STRIKE PORTIONS OF PLAINTIFFS’ SUMMARY JUDGMENT EVIDENCE**, the Court having reviewed the pleadings of the parties and taken into account applicable law, the Court the Court **HEREBY ORDERS THAT:**

DEFENDANTS’ OBJECTIONS	GRANTED	DENIED
Strike Plaintiffs’ Appendix Exhibit 1, “Summary of Undisputed Heat Stroke Deaths		
Or in the alternative, for Ex. 1, strike column 7 and strike from the chart all deaths which occurred after Mr. McCollum became ill on July 22, 2011 as follows: Hudson, Meyers, Webb, Togonidze, Cook, Martone, Marcus, James, Alvarado, Adams, and Hinojosa.		
Autopsies & Reports of Heat Related Incidents for incidents after July 22, 2011: D.E. 300-2 to 300-4, Ex. 2-10; D.E. 300-4 to D.E. 300-7, Ex. 12-22; D.E. 300-8 to D.E. 300-9, Ex. 27-30; D.E. 302-12 to 302-13, Ex. 180 (report of Caddell injury); D.E. 305-19, Ex. 301-302;		

Mortality and Morbidity Reports for incidents after July 22, 2011: D.E. 300-7, Ex. 23 (Mortality and Morbidity Worksheet for death on 7/29/2011 prepared by Dr. Williams on 12/7/2011); Plaintiffs' sealed exhibit no. 303 at pp. 7104-7107 and 7112-7148.		
Emails and letters dated after July 22, 2011: D.E. 300-7 to 300-8, Ex. 25-26; D.E. 305-7 to 305-9, Ex. 236-249; D.E. 305-10, Ex. 251-254; D.E. 305-11, Ex. 257; D.E. 305-12, Ex. 262-265. (Please note, there seems to be two Exhibits numbered as "253". In this paragraph, we are referring to the email labeled as Ex. 253 at D.E. 305-10 at p. 37-39)		
2012 Meeting minutes: D.E. 300-19, Ex. 71-72		
May and Sept. 2012 inmate grievances: D.E. 300-20, Ex. 74-75		
Risk Mgt. Injury Reports for incidents after July 22, 2011: D.E. 301-5, Ex. 109; D.E. 305-10, Ex. 251		
Learned Articles and/or Treatises: D.E. 302-1, Ex. 151-153 which require expert analysis and have not been referenced in the attached expert reports as having been reviewed by a specific expert who was disclosed specifically for this case		
News Articles: D.E. 302-2 to 302-3, Ex. 158-164		
EAC Reports for incidents after July 22, 2011: D.E. 302-15 to 302-15, Ex. 184-201		
OIG Reports for incidents		

after July 22, 2011: D.E. 303-14 to 305-1, Ex. 202-210		
Affidavit of Jeremy Banks (offender) D.E. 302-9, Ex. 170		
“Affidavit of Fact” at D.E. 302-1, Ex. 154 by attorney Scott Gray		

SIGNED this _____ day of _____, 2016.

KEITH P. ELLISON
U. S. DISTRICT COURT JUDGE